IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION Nos. 6464 & 6492 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHARUTAR AROGYA MANDAL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6464 of 2004

MR DC DAVE for Petitioner No. 1

..... for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 24/06/2004

COMMON ORAL JUDGEMENT

Rule. Mr.Trivedi, learned Addl. Advocate General appearing for the State waives service of rule.

2. In both these petitions, the petitioners have prayed for directing the respondents to withdraw the stipulations as contained in Clauses 3.1 to 3.4 of the Rules for admission and the petitioners have also prayed for annulling the decision, if any, rendered by the respondent Committee as referred to vide Clause No.3.3. The petitioners have further prayed for the filling up of the management quota on the basis of marks obtained at the qualifying examination of HSC by adopting the method of selection as communicated in the correspondence dated 26-3-2004.

3. Having heard Mr.Dave, learned Counsel for the petitioners and the learned Addl. Advocate General, Mr.Trivedi for the State authorities, and in view of the reasonings recorded by this Court in its decision delivered today in SCA No.6307/2004 and allied matter, whereby it has been observed that it is not open to any college to adopt for any separate mode of judging the merits of the students and only two methods are read namely; (i) to go by the merit list as per the criteria laid down by the State Authorities and (ii) if permitted, merit at the CET conducted by the Association of all colleges of that type.

4. In view of the judgement delivered by this Court today in SCA No.6307/2004 and another, since there is neither Association of all colleges, nor the denial for holding of CET by the Committee is interfered with, the only option left to the petitioners would be to go by the merit of the students at the list prepared by the Government as per Rule 3.3 and such separate yard-stick by each college like of petitioners for judging the merit of the student is not permitted.

5. Mr.Dave made an attempt to submit that the criteria laid down by the petitioner institutions is on the basis of guideline issued by MCI and he submitted that the marks obtained at the examination of mathematics are required to be excluded. I am afraid, such contention can be accepted in view of the reasonings recorded by the Court in the aforesaid decision. Once the option is not permitted, unless that college is having settled norms, at least for about 25 years, the individual exercise of judging the merit of the student, if allowed, would result into not only a chaotic situation, but may also result into a great peril to the students concerned. Under the circumstances, the prayer of the petitioners qua permitting for preparing the merit list as conveyed in the communication dated 26-3-2004

cannot be granted.

6. Mr.Dave also made an attempt to canvass that it is on account of such option given by the Fee Committee as per the communication dated 17-3-2004, addressed to all SFIs, the petitioners have decided to prepare the merit list accordingly as per the guidelines of the MCI. I am afraid, such contention can be accepted in view of the reasonings recorded by this Court in the above referred decision. Once it is decided to judge the merits of the students on the basis of the marks obtained in HSC Science Stream, such individual, separate yard-stick of judging the merits of the students for the purpose of giving admission, may be for the management quota, is not permissible and hence such contention deserves to be rejected.

7. So far as charging of the fees in government quota is concerned, the said aspect is already dealt with by this Court in the aforesaid judgement, and if the fee structure is approved/fixed by the Fees Committee for the petitioner colleges concerned, it will be entitled to charge the fees from the students who are admitted on the government quota on the basis of the same reasonings recorded in the above referred judgement. The petitions are partly allowed to the aforesaid extent. Rule made absolute accordingly.

8. Mr.Dave for the petitioners submitted that as requested by the learned Counsel appearing for the petitioners in SCA No.6307/2004, Mr.Nanavati and Mr.Joshi, even in respect to the petitioner colleges, the management quota may not be filled up on the basis of the merit list prepared by the Centralized Admission Committee.

9. In view of the same reasonings recorded in the said judgement which is delivered today, the request of Mr.Dave cannot be accepted and hence rejected.

24-6-2004 (Jayant Patel, J.)

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